that the oath was improperly administered, in the absence of express statutory prohibition this fact would not prevent the use of the confession as evidence.[21] Evidence illegally obtained is constantly received,[22] and it is trite to remark that a confession obtained by fraud, trick, or the use of deception is admissible,[23] however much the practice of obtaining them in this way may have been condemned.[24] The falsity of the position that the admission of such a confession as that condemned by the majority[25] violates the privilege against self-incrimination has been ably exposed by Professor Wigmore.[26] It is to be regretted that the view of Judge Seabury did not prevail in the opportunity thus presented to set at rest the doubts which have arisen in this state and to thus make possible the use of our criminal procedure as an instrument for the administration of justice to criminals, rather than a series of loop-holes for the escape of plotters against society, and to make the stand of the courts in the future an effort to ascertain the truth rather than an exhibition of weak sentimentalism toward criminals, as has been too often the case in the past.[27].

TITLE OF ASSIGNEES UNDER FOREIGN STATUTORY ASSIGNMENTS IN INSOLVENCY.—Generally, a conveyance of personal property valid by the law of the domicil of the owner will pass title to the property wherever situated, unless contrary to the settled policy of the *lex loci rei sitae*.[1] This rule has been applied to voluntary assignments for the benefit of the creditors.[2] But on the question of statutory assignments in bankruptcy or insolvency, the courts of England and America are at odds. The English courts hold that because of commercial convenience and the rules of comity between nations the involuntary assignment in bankruptcy operates to transfer property wherever situated unless con-

---

[21]Faunce *v.* Gray, *supra*; *cf.* People *v.* McGloin, *supra*, at p. 248; People *v.* Gibbons (1872) 43 Cal. 557; People *v.* Kelley (1873) 47 Cal. 125; but see People *v.* Mondon, *supra*, at pp. 221-222. That the confession will not be excluded because the defendant was unlawfully in custody, see Balbo *v.* People (1880) 80 N. Y. 484, 498.

[22]People *v.* Adams (1903) 176 N. Y. 351, 68 N. E. 636; Wood *v.* McGuire (1857) 21 Ga. 576; *contra*, Boyd *v.* United States (1886) 116 U. S. 616, 6 Sup. Ct. Rep. 524.

[23]People *v.* White (1903) 176 N. Y. 331, 68 N. E. 630; People *v.* Buffom (1915) 214 N. Y. 53, 108 N. E. 184; People *v.* Dunnigan (1910) 163 Mich. 349, 128 N. E. 180.

[24]See "Inquisitorial Confessions", by Cuthbert W. Pound, 1 Cornell Law Quarterly, 77; People *v.* Buffom, *supra*.

[25]Their language is: "The practice of calling the accused as a witness in the very proceeding in which the charge is being investigated cannot be too severely condemned."

[26]Wigmore, Evidence, §§ 823, 2266.

[27]*Cf.* Paxson C. J., in Commonwealth *v.* Clark (1890) 130 Pa. 641, 650, 18 Atl. 988; Parke and Earle JJ., in Regina *v.* Baldry (1852) 2 Den. C. C. 430, 444-446.

[1]Burrill, Assignments (6th ed.) § 276; Frazier *v.* Fredericks (1853) 24 N. J. L. 163.

[2]Burrill, Assignments (6th ed.) § 276; Kelstadt *v.* Reilly (N. Y. 1878) 55 How. Pr. 373; Thompson *v.* Fry (N. Y. 1889) 51 Hun. 296, 4 N. Y. Supp. 166; Zuppann *v.* Bauer (1885) 17 Mo. App. 678.

trary to the law of that country or the law of nations.[3] An attempt was made by Chancellor Kent to introduce this theory into our law on the ground that comity was the better policy when the rights of prior attaching creditors were not impaired.[4] This result, however, was not favored by the Supreme Court of New York in a case between the same parties. Since it was felt that the comity might not be reciprocated,[5] and the doctrine became firmly established in New York and elsewhere, that bankruptcy or insolvent laws of a foreign jurisdiction do not convey title to the property of the insolvent natural person out of that jurisdiction as against attaching creditors.[6] But some courts discriminate against foreign creditors attaching in the courts of the state where the property is situated.[7] And it is generally admitted that a foreign statutory or involuntary assignment passes title to personal property as against the bankrupt or where the rights of domestic attaching creditors are not disturbed.[8]

While an assignment by an insolvent corporation does not transfer title outside of the jurisdiction,[9] it has been held that where the corporation has been dissolved and the title vests in a statutory liquidator pursuant to a term in the charter or the acts of incorporation, the liquidator gets title to personal property in a foreign state. The theory is that a state admits a foreign corporation to business within its borders and persons there contract, with reference to the charter and

[3]See Sill *v.* Worswick (1791) 1 H. Bl. 665; Philips *v.* Hunter (1795) 2 H. Bl. 402; Hunter *v.* Potts (1791) 4 T. R. 182; Smith *v.* Buchanan (1800) 1 East 6. In the last case the court held that while a discharge in insolvencey under the laws of Maryland was not a good answer to an action in England against the insolvent, the property would be vested in his assignees by the Maryland decree. This rule has been extended to assignments under the bankrupt laws of Holland. Solomons *v.* Ross (1764) 1 H. Bl. 131n.; Jollet *v.* Deponthieu (1769) 1 H. Bl. 132n. The Irish and Scotch courts have applied the same rule relative to bankruptcy in England, Neal *v.* Cottingham (1764) 1 H. Bl. 132n; Royal Bank of Scotland *v.* Cuthbert (1813) 1 Rose 462; as has a French court relative to an English bankruptcy. Parish *v.* Seron (1780) Cooper's Bankrupt Laws, Add., p. xxvii.

[4]Holmes *v.* Remsen (N. Y. 1820) 4 Johns. Ch. 460. The Chancellor also said *arguendo* that the assignment might be considered voluntary on the ground that a man is presumed to assent to the laws of his own country.

[5]See Holmes *v.* Remsen (N. Y. 1822) 20 Johns. *229.

[6]See Odgen *v.* Saunders (1827) 25 U. S. 213, 360, where it was stated that it was important for England to maintain the doctrine of universal obligation, but that it would not uphold our interest. See 2 Kent Comm., *406; Abraham *v.* Plestoro (N. Y. 1829) 3 Wend. 538, in which a senator characterized Chancellor Kent's decision as an attempt to create an ideal structure of international law without much regard for the solidity of its materials. Barth *v.* Backus (1893) 140 N. Y. 230, 35 N. E. 425.

[7]Moore *v.* Bonnell (1864) 31 N. J. L. 90. Here it was decided that it was inequitable for a citizen of New York to contest the validity of a New York assignment in the courts of New Jersey. Barth *v.* Backus, *supra,* takes the view that inasmuch as the foreign citizen is allowed to sue in the local courts he should have the same privileges as citizens of the forum.

[8]Matter of Waite (1885) 99 N. Y. 433, 2 N. E. 440; *In re* Delehanty's Estate (1908) 11 Ariz. 366, 95 Pac. 109.

[9]Security Trust Co. *v.* Dodd, Mead & Co. (1899) 173 U. S. 624, 19 Sup. Ct. Rep. 545.

laws of incorporation, which of course includes provisions for dissolution.[10] Unless this fact that no action will lie against a dissolved corporation is of weight, it is difficult to see why the same reasoning does not apply to cases of assignments by insolvent corporations.

In the recent case of *Martyne* v. *American Union Fire Ins. Co.* (N. Y., Ct. of App. 1915) 54 N. Y. L. J. 48, a fire insurance company of Pennsylvania had become insolvent and its affairs, under a statute of that state, were for purposes of liquidation, on its dissolution vested in the insurance commissioner. Subsequent to the dissolution, property of the corporation was attached in New York by the assignee of some policy holders. On motion to vacate by the liquidator, the attachment was dissolved. The court admitted that the law was settled in the case of natural persons, that a foreign statutory involuntary assignment does not pass title to property within this state, but declared that it did not wish to extend this doctrine to cases of foreign corporations which had been dissolved. The court recognized the theory that a person contracting with a corporation contracts with reference to the charter and acts of incorporation,[11] but the case seems to have been decided rather on the ground that comity should give effect to foreign statutory assignments. While there seems to be no valid distinction between involuntary assignments of the effects of a corporation and a natural person it is certainly a desirable limitation on the former rule,[12] which under modern conditions is at best of questionable value.

GIFTS OVER TO ISSUE.—Though it is often said that the object of the courts in the interpretation of wills is to ascertain the intention of the testator, certain words frequently used in the testamentary disposition of property have acquired a well-defined technical meaning more or less independent of their popular signification. Thus "issue" is in law equivalent to "descendants" including all of whatever generation,[1] since it is not to be supposed that the testator intended to divert the gift from those direct lines of his family which consist of the offspring of his deceased children.[2] Where, however, it appears that "issue" has been employed in the more popular meaning of "children", the courts so interpret it, *e. g.*, when such intention is manifested by its use correlatively with "parents",[3] and where such a signification is

---

[10]Relfe *v.* Rundle (1880) 103 U. S. 222; Bockover *v.* Life Assn. of America (1883) 77 Va. 85; Fry *v.* Chart Oak Life Ins. Co. (C. C. 1887) 31 Fed. 197. In the last case the court expressed a doubt to to whether this rule would extend to others than members of the corporation.

[11]Relfe *v.* Rundle, *supra.*

[12]Platt J., in Holmes *v.* Remsen (1822) 20 Johns. *229, declared that the rule was not intended to extend to cases between the states.

[1]Soper *v.* Brown (1892) 136 N. Y. 244, 32 N. E. 768; Schmidt *v.* Jewett (1909) 195 N. Y. 486, 88 N. E. 1110; Jackson *v.* Jackson (1891) 153 Mass. 374, 26 N. E. 1112; Dexter *v.* Inches (1888) 147 Mass. 324, 17 N. E. 551; Robinson *v.* Sykes (1856) 23 Beav. 40; *cf.* Haydon *v.* Wilshere (1789) 3 T. R. 372.

[2]Matter of Farmers Loan & Trust Co. (1914) 213 N. Y. 168, 107 N. E. 340.

[3]Pruen *v.* Osborne (1840) 11 Sim. 132; Sibley *v.* Perry (1802) 7 Ves. Jr. *522. For a criticism of the latter case see Ralph *v.* Garrick (1870) 11 Ch. Div. 873, 882, 886.